

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-04-DL-066
Steve Williams)	
d.b.a. American Broadcasting of Texas)	NAL/Acct. No. 200432500003
Owner of Three Unregistered Antenna Structures)	
In)	FRN 0005003868
Waco, TX)	
)	

FORFEITURE ORDER

Adopted: September 7, 2004

Released: September 9, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of three thousand dollars (\$3,000) to Steve Williams d.b.a. American Broadcasting of Texas (“Williams”), owner of a three-tower directional array located at or near geographical coordinates 31° 34’ 10”N and 97° 00’01”W, Waco, Texas, for willful and repeated violation of Section 17.4(a) of the Commission’s Rules (“Rules”).¹ The noted violation involves Williams’s failure to register the three-tower directional array with the Commission.

II. BACKGROUND

2. On March 2, 2004, two agents from the Commission’s Dallas Field Office (“Dallas Office”) inspected a three-tower directional array located at or near geographical coordinates 31° 34’ 10”N and 97° 00’01”W (three towers) in Waco, Texas. The agents noted that the structures were painted and fitted with red lighting. A sign was posted on the property entrance, which stated “Tower Registration Number Pending” and “KBBW–AM radio Facility #1322.”

3. On April 8, 2004, agents from the Dallas Office checked the Commission’s Antenna Structure Registration (“ASR”) database and found that these towers were not registered.

4. On April 13, 2004, a Letter of Inquiry (“*LOI*”) was sent to Williams concerning the three towers. In his April 27, 2004 response, Williams stated he acquired the towers when he bought Station KBBW(AM) on June 11, 1986. Williams also stated that he completed the registration paperwork for the three towers when the ASR system was implemented, but failed to submit the registration for filing.

5. On July 9, 2004, the Dallas Office issued a *Notice of Apparent Liability for Forfeiture* to Williams in the amount of three thousand dollars (\$3,000) for the apparent willful and repeated failure to

¹47 C.F.R. § 17.4(a).

register each of the three towers as required by Section 17.4(a) of the Rules.² In its response, Williams requests cancellation or reduction of the proposed forfeiture because Williams fully complied with the Commission's requests in its *LOI* and initiated steps to ensure that the three towers are registered. Specifically, following receipt of the *LOI*, Williams hired a surveyor to verify the coordinates of the towers and an engineering firm to submit the necessary studies to the Federal Aviation Administration ("FAA") to obtain a no hazard determination. Williams asserts it will immediately register the three towers after it receives an FAA no hazard determination.

III. DISCUSSION

6. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,³ Section 1.80 of the Commission's Rules ("Rules"),⁴ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"). In examining Williams's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵

7. Section 17.4(a) of the Rules provides that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the FAA must register the structure with the Commission. Williams's antenna structures required notification to the FAA because each of the structures exceeded 200 feet in height.⁶ Therefore, each of Williams's antenna structures required Commission registration. Williams stated that it acquired the three towers in 1986. Williams also admitted that it completed the registration paperwork to register the three towers when the ASR system was implemented but failed to submit the paperwork. Finally, Williams admits in its response that the three antenna structures are still not registered, nearly eight years after they were first required to be registered, because it has not yet received a no hazard determination from the FAA.

8. Williams asserts that the forfeiture should be reduced or cancelled because it took prompt action to comply with the registration requirements by seeking a no hazard determination from the FAA after it received the *LOI*. Williams's remedial actions, however, to correct promptly violations after they have been identified by an agent is expected and does not warrant a reduction in the forfeiture amount.⁷

9. We have examined Williams's response to the *NAL* pursuant to the statutory factors

²*Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200432500003 (Enf. Bur., Dallas Office, July 9, 2004) ("*NAL*"). The amount of the proposed forfeiture was equal to the base forfeiture amount for such a violation.

³47 U.S.C. § 503(b).

⁴47 C.F.R. § 1.80.

⁵47 U.S.C. § 503(b)(2)(D).

⁶See 47 C.F.R. § 17.7(a).

⁷See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 21861, 21864-75 (2002); *Sonderling Broadcasting Corp.*, 69 FCC 2d 289, 291 (1978); *Odino Joseph*, 18 FCC Rcd 16522, 16524, para. 8 (Enf. Bur. 2003); *South Central Communications Corp.*, 18 FCC Rcd 700, 702-03, para. 9 (Enf. Bur. 2003); *Northeast Utilities*, 17 FCC Rcd 4115, 4117, para. 13 (Enf. Bur. 2002).

above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we conclude that Williams willfully⁸ and repeatedly⁹ violated Section 17.4(a) of the Rules and find no basis for cancellation or reduction of the \$3,000 forfeiture proposed for these violations. Moreover, Williams should register the three towers promptly after it receives a no hazard determination by the FAA and must notify us when registration is complete.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules,¹⁰ Steve Williams d.b.a. American Broadcasting of Texas **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three thousand dollars (\$3,000) for willfully and repeatedly violating Section 17.4(a) of the Rules.

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹¹ Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. The payment should note NAL/Acct. No. 200432500003, and FRN 0005003868. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.¹²

12. **IT IS FURTHER ORDERED** that, pursuant to Section 308(b) of the Act,¹³ Steve Williams d.b.a. American Broadcasting of Texas must submit a report stating whether he has successfully registered the three towers, no more than thirty (30) days following a determination of no hazard by the FAA, to the Federal Communications Commission, Enforcement Bureau, South Central Region, 520 NE Colbern Road, Lee's Summit, MO 64086, Attention: Regional Counsel.

⁸Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁹As provided by 47 U.S.C. § 312(f)(2), a continuous violation is "repeated" if it continues for more than one day. The *Conference Report* for Section 312(f)(2) indicates that Congress intended to apply this definition to Section 503 of the Act as well as Section 312. See H.R. Rep. 97th Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company*, 6 FCC Rcd 4387, 4388 (1991) and *Western Wireless Corporation*, 18 FCC Rcd 10319 at fn. 56 (2003).

¹⁰47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹¹47 U.S.C. § 504(a).

¹²See 47 C.F.R. § 1.1914.

¹³47 U.S.C. § 308(b).

13. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Steve Williams d.b.a. American Broadcasting of Texas, Radio Station KBBW-AM, 1019 Washington St., Waco, TX 76701 and Mark N. Lipp, Counsel for Steve Williams, Vinson & Elkins, L.L.P., 1455 Pennsylvania Ave. NW, Washington, DC 20004-1008.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau